

CITY OF NORWALK
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**PUBLIC WORKS COMMITTEE
of the NORWALK COMMON COUNCIL
& PLANNING COMMISSION
SPECIAL JOINT MEETING**

- ATTENDANCE:** Darlene Young, Acting Chairwoman PWC; Tom Keegan PWC; Tom Livingston PWC; Barbara Smyth PWC; Fran DiMeglio, Chairwoman Planning CMS; Mike Mushak, Planning CMS; Mary Peniston, Planning CMS; Tamara Shockley, Planning CMS; Brian Baxendale, Planning CMS
- STAFF:** Anthony Carr, Chief of Operations and Public Works; Vanessa Valadares, Principal Engineer; Steve Kleppin, Director of Planning & Zoning; Laoise King, Assistant to the Mayor; Darin Callahan, Assistant Corporation Counsel
- OTHER:** Ann Catino; Attorney, John Pinto, Harbor Commission; John Romano, Harbor Commission

The meeting was called to order at 6:07 p.m. A quorum was present.

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Members of the public who wish to provide public comment are encouraged to submit those via email in advance of the meeting. For these comments to be read into the record, they should be submitted at least three hours in advance of the meeting start time. Please email Monique Cipriano at mcipriano@norwalkct.org to provide written public comment prior to the meeting.

Acting Chairwoman Young called to order the Public Works Committee and Planning Commission Special Joint Meeting on Monday, September 13, 2021.

PUBLIC INPUT

PUBLIC INPUT (GUESTS AT COMMITTEE MEETINGS MAY SPEAK TO ANY ITEM ON THE AGENDA. COMMENTS SHALL BE LIMITED TO NO MORE THAN THREE (3) MINUTES PER SPEAKER.)

John Pinto thanked everyone for him and allowing him to present. He said he met with Mr. Kleppin this afternoon and he has a few comments he would like to read into the minutes. He sent via email the written statement to Ms. Cipriano, so it'll be on file. John Pinto introduced himself stating he is with the Norwalk Harbor Management Commission and Chairman of the Application Review Committee. He began to read his written statement. "As everyone knows, this project, including its effect on Norwalk Harbor, Visitors Dock, and public boating facilities at Veterans Park is of much interest to the NHMC. As required by the general statutes, City code, and the Norwalk HMP adapted by the Common Council, the NHMC must review the Utility Company's plans and provide comments and recommendations to the agencies responsible for approval of these plans, including DEEP, the Corp of Engineers and CT Siting Council. The Harbor Commission's work, in this regard, has been extensive and is documented in numerous reports transmitted to Eversource and the regulatory agencies with our findings and recommendations. For more than a year, we have reached out, a number of times, to the Utility Company requesting their presence at a Commission meeting to inform us of the status of their planning efforts. We have either received no response or were informed that they are not ready to discuss their plans with us. Now we hear, yesterday, that Eversource is ready to proceed with plans that we have not had an opportunity to review. I am here tonight NOT to criticize those plans but to ask for a fair chance to review and comment on them before the council takes any action to move them forward. As members of the NHMC mentioned to Mr. Kleppin this afternoon, it appears that the process you are following tonight is flawed. The notice of your meeting indicates that the planning Commission has conducted a Sec. 8-24 review. **But the Eversource plans also affect municipal property in a Coastal Management Area.** Accordingly, you should be aware that section 22a-105 of the CT Coastal Management Act requires that a Coastal Site Plan review be conducted of the Eversource proposal. To the best of my knowledge, this has not been done. Therefore, the HMC asks that you follow the rule of law and direct the planning commission to conduct the Coastal Site Plan review which requires referral to the NHMC for comments and recommendations. As chair of Application review, we will act on this in the timeliest manner by adding this to the agenda for our next regularly scheduled meeting. Thank you for your attention to these critical issues".

Mr. Mushak asked Mr. Pinto to review the issues involved in the location regarding the visitor's dock. He said he recalls it being the pilings that were installed recently in the last couple of years and the tunneling proximity to those new pilings and any adverse impacts. He asked if that was the only issue.

Mr. Pinto responded that the major issue is going underneath those visitor docks and then what they hope will not happen is that this doesn't disrupt any future plans of what Norwalk might do

in that particular area. He said once those transmission lines go underneath those visitor's dock it will be like a no-fly zone for any of them to do anything, in or around that area. They would like

those transmission lines to be moved certainly away from the visitor's dock in any manageable way that they can. He said they were waiting to see from Eversource and what their plans would be. They were told by Eversource that they are not able to take those lines and conduct a 90° angle and that is not correct. He said they did work on a project in Greenwich and there were seven (7) 90° turns on those high-tension powerlines but they said they couldn't bend them and go away from the visitor's dock and the most expeditious manner was to go under the visitor's dock and they disagreed.

Mr. Mushak thanked Mr. Pinto.

Mr. Pinto added that they had two (2) plans. One (1) of the plans were to go between pilings and they didn't think that was a safe issue to put those 210 kilovolt transmission lines between pilings. He said they have the tendency to move or even in a storm to move or disrupt those transmission lines and then they decided to tunnel way underneath the visitor's dock area. He said the pilings go down quite deep and when they have vessels coming in the area, often times they put spuds down and that is to stabilize those vessels at the mooring site. He said there is what they call black mayonnaise in that area, and it is a very soft sediment. Any pressure that is down on top of that can disrupt anything that's certainly far below. He doesn't know what safety measures they have taken to prevent any elision or alter anything to happen to those transmission lines if they go in that particular area. He said what if they have to dredge that area which they were thinking about doing in order for them to get further boats in that particular area. If they put those transmission lines underneath those docks, they will own the property rights of that area limiting them to what they would do in the future. At least the City of Norwalk will be limited. He said perhaps if they went north of the visitor's dock area, they would certainly feel comfortable with that aspect of the planning.

Acting Chairwoman Young thanked Mr. Pinto.

John Romano, Chairman of the Norwalk Harbor Commission, commented that Eversource doing an end run like this is very troubling to them and should be up to the Committee and City as well. He said they have had conversations with DPW, Mayor's Office and the like but at the end of the day, they are the authority that needs to weigh in to make sure there is no negative impact to their future plans or existing situation. He said, ironically, they were in Planning and Zoning today and met with Steve Kleppin regarding meeting with the consultants that they've hired on October 6th for other issues and so they brought up this issue. He said they ran into the Mayor on their way out and the Mayor was very much up to speed telling them that the location has been changed and did what they wanted in general terms by going deeper which is a good thing. He said they have not seen the plan for the new route, and they are the ones that need to vet it and have a degree of comfortability because they are looking out for interests as their commission and this City at large. Mr. Romano said they are circumventing the system and they did that four (4) years ago and pressured the Council and the Mayor to sign a letter to forward on to Army Corps of Engineers because there was an urgency and they waited to the last minute. They have sent out several letters to them trying to get interaction and getting them to meet and provide their iteration of the route they are going to take and that never came forward. He said they are

going out of sequence, and they don't get it and find it to be extremely objectionable as a Commission. Mr. Romano thanked them.

Acting Chairwoman Young thanked Mr. Romano. Acting Chairwoman Young closed the portion of public input at 6:18p.m. Acting Chairwoman Young stated that Chairman Tsiranides had a family emergency, and he may join later if he resolves the matter in time. Chairman Tsiranides asked Acting Chairwoman Young to step in and chair the meeting in his absence.

ROLL CALL

Acting Chairwoman Young called Roll Call for the Public Works Committee. A quorum was present.

Chairwoman DiMeglio called Roll Call for the Planning Commission. A quorum was present

NEW BUSINESS

- 1. AUTHORIZE THE MAYOR, HARRY W. RILLING, TO EXECUTE THE AGREEMENT FOR USE OF PUBLIC PROPERTY, TEMPORARY WORK AGREEMENT, SIDE LETTER AGREEMENT, AND ANY AND ALL OTHER DOCUMENTS WITH EVERSOURCE NECESSARY AND FOR THE PURPOSE OF PROVIDING EVERSOURCE WITH RIGHTS TO CONSTRUCT, OPERATE AND MAINTAIN ITS ELECTRICAL TRANSMISSION LINE FACILITIES TO BE PLACED IN CERTAIN UNDERGROUND LOCATIONS WITHIN VETERAN'S PARK AND IN CERTAIN UNDERGROUND AND OVERHEAD LOCATIONS AT THE NORWALK POLICE STATION PROPERTY IN CONNECTION WITH THE WALKBRIDGE PROJECT AND THE CITY'S COMPENSATION FOR SUCH RIGHTS.**

Acting Chairwoman Young opened this item up for discussion. She said Chairwoman DiMeglio asked for an explanation from Mr. Baxendale and Corporation Council, responding to Mr. Pinto and Mr. Romano's comments.

Attorney Callahan, Assistant Corporation Counsel responded stating with respect to the Coastal Site Plan Review and the citation 228-105, many of the attorneys in the legal department looked at this and found that there are exceptions to that site plan review further down the statutory scheme. He said when looking at those exceptions and what their regulations are, they have come to the opinion that this does not require a Coastal Site Plan Review. He believes that was the primary legal issue he heard or jurisdictional potential such as a jurisdictional issue. He said he is not going to get into the legal analysis due to client privilege and that this is a public meeting and typically they don't, but the overarching analysis is what he just went through.

Chairwoman DiMeglio asked if he was saying it is not required.

Attorney Callahan said the extent of the issue is Coastal Site Plan Review and they don't see how it's required.

Mr. Baxendale said in line with the POCD, the basic facilities for people to use the docks are very key and the resiliency of our dock structure as well as the electric cables are important.

Normally, he presumes the Harbor Commission would have been involved and their concerns would have been delayed or they'd be able to officially be registered with Mr. Kleppin and the powers that be that their concerns have not been met. It sounds very strange to him.

Chairwoman DiMeglio said that she has been involved with meetings years ago, not lately, and this has been going on for about three (3) to four (4) years, and with all due respect to Mr. Pinto and Mr. Romano, she doesn't understand how they are here today and call it an end run, not seeing the plan, circumventing the system. She said she would assume and correct her if she is wrong that the Harbor Commission had been part of the meetings. She said she finds it hard to believe that they haven't seen the plan or anything. She asked if communication has been taken place with the Harbor Commission and wanted to know if anyone could answer that.

Attorney Callahan stated that he cannot answer that from the legal department because they look at the legal issues. He pointed out to the Planning Commission and DPW that the exercise of jurisdiction is very specific. He said it is simply exercising jurisdiction or whether to authorize essentially easements over certain parts of the land and whether to authorize an 8-24 or approve this from an 8-24 perspective which is a very, very discreet issue.

Ms. King added that they have been talking about this project going on five (5) years and there have been a lot of discussions back and forth with the Harbor Commission and they are aware of what the concerns are. The City has been advocating really strong with Eversource to make sure that they are taking into account every single issue that the Harbor Commission has raised, and she thinks they're going to be really pleased when they take a look at what the proposed plans are. Eversource was able to move the horizontal directional drill to go far to the north of the visitor's dock so they will be in no proximity to where the pilings are and also there is some compensation for the Harbor Commission in a side letter agreement to help the Harbor Commission with their docks if they do want to make additional improvements to them going forward. She said at this point there are still several steps that have to happen. She said this is one (1) piece of it, the 8-24 review for the Planning Commission and for the Council are looking at the easement agreement. After that it still needs to go to the Siting Council and the Siting Council will make a decision about which way the route is going to go and at that point the Harbor Commission has the opportunity to put in additional comments. This isn't going to be finalized until it goes to Council on the 28th so there is still plenty of time for the Harbor Commission to opine here and everybody is well aware of what their concerns are because they have been talking about it for five (5) years. She feels confident that the current plan addresses what the Harbor Commission was worried about.

Acting Chairwoman Young thanked Ms. King and said that Mr. Carr and Ms. Valadares are also on the call, and they might want to share some of the plan and what it looks like.

Mr. Callahan added that Ms. King is absolutely correct. The Siting Council has exclusive jurisdiction ultimately and they are really early on in the process, first step and nowhere near the end step. Ultimately the Siting Council will review this and make a determination if the route is acceptable.

Chairman DiMeglio thanked Ms. King. She said the role of the Planning Commission is for the 8-24 and to see if it meets the POCD. She asked if any members have any more comments.

Mr. Ferguson asked if it was premature to ask for a new plan route or are they just going with the approval that is stated or are they looking for the updated route or is that already in the works and everyone is comfortable with that.

Ms. Valadares shared her screen to show the members the latest route they have. She believes this is their seventh or eighth interaction at all from the past five (5) years. She stated that she would show them what they have and what the areas are that need the two (2) easements and that is the reason they are in front of both committees tonight. She gave an overview and explained what it is and then she zoomed in on the two (2) parcels that would be affected. She reminded everyone that the reason Eversource needs to do that is because of the Walkbridge Replacement Project. DOT told Eversource that they need to move their transmission lines that are over the bridge, and it has to be relocated and not returned back on the bridge. The process began in 2016. CDOT tried to evaluate with Eversource, and they looked at about seven (7) routes throughout those years. The City got involved in late 2016 with them and in 2018, the Common Council approved Eversource to use a route that will go under the river and that approval was so they could file with the Army Corps. permit. There was a no objection letter from the Mayor that the route under the river was good for the City. After that letter, both sides had delays due to a lot happening with the project itself. They were continuing with Eversource to locate the best route that would meet all of the City's interest. There were two (2) alterations after 2018. They believe this route is the best fit and that is what the land use agreement will apply. She described the map to the Committee Members and explained the horizontal drilling and where they will be going underground. She said there are three (3) documents to get approved, the Land Use Agreement, Temporary Work Access, and the Side Letter. She zoomed in on the police headquarters because that is one (1) of the parcels that will be affected. She said if the work is happening on the right-of-way which is the case on Elizabeth Street, they wouldn't need an easement or approval from either committee or commission. That would be address with a right-of-way encroachment permit. She said because they have two (2) parcels that would be affected they need to have a Land Use Agreement, easement, or a Temporary Use Agreement. She showed the members the black hatch area on the map which is one (1) the areas the Land Use Agreement will apply to. She showed the members the other hatch area which is bigger and said it is only temporary for staging. She also showed them on the map a little slice of Veteran's Park that would be affected as well. She reiterated that this has to be reviewed by the Siting Council and they will be the ones that have the final word on the route and then they can apply for final permits.

Chairman DiMeglio thanked Ms. Valadares.

Mr. Ferguson asked about parking both current and future proposed parking for the Police Department.

Ms. Valadares answered in the package there is a third document called the Side Letter and it has everything that is going to be involved with the negotiations of the easements. There is a traffic plan that they developed, and the Police Department was involved with that. They are renting one (1) lot across from the train station. The work at the Police Department should

take about two (2) to three (3) weeks. They will also open up a driveway while they are doing the work, she showed the members on her shared screen.

Mr. Ferguson asked if the positive affect of the line would increase services for the local area.

Mr. Callahan answered that it should not increase City services in any appreciable manner. He said they spent an enormous amount of time negotiating this agreement to avoid that among other things. He said post construction, they required very minimal use of the easement locations whether it be for inspection, maintenance, or repair and Eversource has to come with the City with a traffic and parking management plan to address those concerns and it has to be agreeable to the City. They have to work in good faith to make sure that the parking and the traffic management is dealt with so that it doesn't place an undue burden on the City. He said this is a very large project and during construction any large project will have some impact, but they are going to provide traffic and parking management for the Police Department to the extent it's necessary for Veteran's Park. He said the Police Station has a much more unique issue with respect to traffic based on location and parking because the parking lot is tight. He said they looked at that in great detail and that is how they addressed it to mitigate the impact in the City.

Mr. Ferguson said he has questions about traffic as well. He asked about the trucks at Washington, South Main and Monroe Street Bridge, the access points, and the uses of those trucks, is that already mapped out and are they going in and out of that area now because they are staging at Veteran's Park. He said they will be staging at the parking lot, but not as much as Veteran's Park correct, that is a hot spot.

Ms. Valadares answered correct. She said that is why they asked for a second driveway and have worked that out with them. She explained the stages for the parking lot.

Mr. Ferguson asked if they thought about a second level at that parking area or is that too costly.

Mr. Callahan replied that they have not looked at that as a specific way to address the issue. He thinks there is a plan in place, and they will see what the impact is. He said what they understand to be the manner in which they will address it seems to be very likely it will be addressed in a reasonable way.

Chairman DiMeglio said while they are on the subject of the police station, she asked that they look within the existing parameters that they have, come up with and not to go and change anything. She is not sure how possible valets or shuttles or even if there were any trade-offs, closer parking areas, lots or garages would work but she proposes the least amount of disruption for the City's Police Department.

Mr. Callahan said there has been a tremendous amount of discussion on avoiding disruption during this project and with a very keen eye towards the Police Department. Eversource is very aware that this is a high-level issue on their radar. He said Eversource has every incentive based on the way they drafted the agreement and addressed the issues during negotiations that they'll provide the necessary ancillary services for that purpose.

Mr. Mushak asked Mr. Kleppin if the Harbor Management Plan part and parcel of the POCD automatically. He said he thought it was. He asked because they are included in the Harbor Management Plan which he believes is part of their POCD. He said actions, goals, and objectives in terms of preserving scenic views and a very important part of the Harbor Management Plan is to preserve and enhance historic scenic views and preserve neighborhood character and so he would want to include that, possibly, in criteria for passing a motion and voting on this. The review they received has two (2) references to the POCD and he would like to include those.

Mr. Callahan responded to Mr. Mushak. He said they are two (2) separate documents. He said the POCD is created, promulgated, and adopted pursuant to the §8-1 but the same statutory scheme as the §8-24. The Harbor Commission Management Agreement is through a whole separate statutory structure in and of itself. They are their own distinct documents.

Mr. Mushak said he is going to support the application for motion tonight, but he wants to include language about preserving scenic views because obviously the undergrounding of the utilities would prevent monopoles and wires flying across the harbor, the park, South Norwalk, etc. and he thinks everyone can imagine what that would do to the scenic quality of hundreds of millions of dollars of waterfront property and the public parks. He said he respects the Harbor Commission greatly because their harbor is the gem of Fairfield County, if not the entire State or just say New England because it is a beautiful harbor. He knows how hard everybody works to protect it. He hopes that some of the questions were answered tonight but what he sees is that issues were addressed, and he is a huge supporter of scenic quality and waterfront protection and neighborhood character. Mr. Mushak continued the fact that these will be underground and the one (1) alternative early on was to just have them fly over huge utility poles with wires basically going across the central core of the City. He would like to have that language into the discussion tonight.

Chairwoman DiMeglio asked Mr. Kleppin if there was a paragraph that could be added to Mr. Mushak's note.

Mr. Kleppin he would try to put something together.

Mr. Mushak offered to assist. He said there is a general paragraph from the POCD, chapter eight, section c; goals and polices on page 134 that they can use. He said it is one of the goals and objectives, "protect and manage Norwalk's natural resources and its inland and

coastal waters to enhance water quality, wildlife habitat, biodiversity public health and enrichment of community character”. He said if this is too complicated to insert this into this approval, he is happy with having it on record but the discussion of the alternative to having wires overhead, he just wanted it to be part of tonight’s record.

Chairwoman DiMeglio asked Mr. Kleppin if they could add a number three (3) and call it chapter eight, section c, would that suffice.

Mr. Kleppin said he could pull that page up when it gets to the vote of the Planning Commission.

Chairwoman DiMeglio said that they are going to finish their discussion and vote so if that could be reference while the other meeting continues.

Ms. Peniston asked if this was determined to be the safest route to resolve the issue. She wants to ensure that they are considering public safety, and it is on record.

Ms. Valadares answered correct.

Acting Chairwoman Young asked if the Planning Commission had any other questions. She than asked for the vote from the Public Works Committee.

****MR. LIVINGSTON MOVED THE ITEM
MOTION PASSED UNANIMOUSLY

2. REFERRAL OF ITEM 1. TO THE PLANNING COMMISSION FOR A REPORT AND RECOMMENDED ACTION PURSUANT TO CONN. GEN. STAT. §8-24.

There was no report on this item.

****MS. SMYTH MOVED THE ITEM
MOTION PASSED UNANIMOUSLY

3. PLANNING COMMISSION ACTION: 8-24 REFERRAL - #08-21 – PUBLIC WORKS COMMITTEE – EVERSOURCE TEMPORARY EASEMENT FOR ELECTRICAL TRANSMISSION RELATED TO THE WALK BRIDGE – REPORT & RECOMMENDED ACTION.

There was no report on this item.

****MR. FERGUSON MOVED THE ITEM
MOTION PASSED UNANIMOUSLY

4. THEREFORE, BE IT RESOLVED BY THE NORWALK PLAMING COMMISSION THAT 8-24 REFERRAL #08-21 – DPW – AGREEMENT FOR USE OF MUNICIPAL PUBLIC PROPERTY, TEMPORARY WORK AREA AGREEMENT AND SIDE LETTER AGREEMENT FOR EVERSOURCE TO USE CITY PROPERTY FOR

ELECTRICAL TRANSMISSION LINE INSTALLATION IN ASSOCIATION WITH THE WALKBRIDGE PROJECT BE APPROVED.

BE IT FURTHER RESOLVED THAT THE REASONS FOR THIS ACTION ARE TO IMPLEMENT THE FOLLOWING PLAN OF CONSERVATION AND DEVELOPMENT GOALS, POLICIES AND ACTIONS:

1. THAT "NORWALK'S INFRASTRUCTURE AND PUBLIC FACILITIES ARE RESOURCE-EFFICIENT, WELL-MAINTAINED, COST EFFECTIVE, SUSTAINABLE AND RESILIENT" (CHAPTER 11: PUBLIC FACILITIES, INFRASTRUCTURE & SERVICES); AND
2. THAT "NORWALK HAS A COMPREHENSIVE AND BALANCED TRANSPORTATION SYSTEM, WITH SAFETY AND MULTIMODAL ACCESSIBILITY THE TOP PRIORITY OF CITYWIDE TRANSPORTATION PLANNING" (CHAPTER 10: TRANSPORTATION & MOBILITY NETWORKS); AND
3. THAT "PROTECT AND MANAGE NORWALK'S SENSITIVE ENVIRONMENTAL RESOURCES AND ITS INLAND AND COASTAL WATERS TO ENHANCE WATER QUALITY, WILDLIFE HABITAT, BIODIVERSITY, PUBLIC HEALTH, AND ENRICHMENT OF COMMUNITY CHARACTER " (CHAPTER 8: SUSTAINABILITY& THE NORWALK ENVIRONMENT, GOALS & POLICIES).

BE IT FURTHER RESOLVED THAT NOTICE OF THIS ACTION BE FORWARDED TO THE COMMON COUNCIL.

There was no report on this item.

****MR. FERGUSON MOVED THE ITEM
MOTION PASSED UNANIMOUSLY

UPCOMING PROJECTS

**ADJOURNMENT MR. MUSHAK MOTIONED TO ADJOURN
MOTION PASSED UNANIMOUSLY
MEETING ADJOURNED AT 7:02P.M.**

**NEXT MEETING: TUESDAY, OCTOBER 5, 2021
PUBLIC WORKS COMMITTEE
7:00 P.M. LOCATION TBD**